

Incoming

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cc: Susan  
Lynn  
Maw

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**Provo** CITY ATTORNEY'S OFFICE  
**FAX** COVER SHEET

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**To:** Mark Mesch

**Fax #:** 359-3940  
Steve Alder, AAG, DNR, 801/538-7440  
John R. Baza, Director, DOGM, 359-3940  
Phillip Lowry, Red Slab, LLC, 377-4991  
Janise Macanas, AAG, Criminal Division, 366-0242  
Gary Weight, Attorney for McPhilomys, 373-4964

**Subject:** Order Issued by Judge Pullan Does Not Apply to Davis

**Date:** 8 March 2007

**Pages:** 3, including this

**COMMENTS:**

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DIV. OF OIL, GAS & MINING

0002

The City of  
Provo, Utah

**Provo**

March 8, 2007

Lewis K. Billings  
Mayor

Mark Mesch,  
Program Administrator  
State of Utah Department of Natural Resources  
Division of Oil, Gas & Mining  
1594 West North Temple Ste. 1210  
P.O. Box 145801  
Salt Lake City, Utah 84114-5801

Re: March 5, 2007, Hearing on Motion that Court Order of February 26, 2004,  
Does Not Apply to Richard Davis

Dear Mr. Mesch:

It is our understanding that Mr. Richard W. Davis, has assumed the obligation to perform reclamation of the land mined without permits by the McPhilomys in late 2003.

As you are aware, in the criminal case against the McPhilomys, Judge Pullan ordered in February 2004 that:

a) There is to be no excavation on what is referred to as the Davis claim located in Provo City, over which Provo city has jurisdiction, and/or over which the State of Utah has jurisdiction, absent a court order authorizing that excavation; and

b) The Court is willing to consider any motion demonstrating that Defendants have obtained the necessary permits to engage in lawful excavation on the Davis claim; and

c) By excavation the Court means the movement or removal of rock or earth materials, including stockpiled materials, by use of any vehicle, equipment, or machine.

City Attorney's Office

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Because of the Court's express reference to Mr. Davis and the breadth of the language in the order, Mr. Davis and Provo City sought clarification of how this language might apply to Mr. Davis.

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Letter to Mark Mesch, Page 2

On March 5, 2007, the Court held a hearing and ruled on this issue. The Court held that its order in the McPhilomy cases should not apply Mr. Davis. From that ruling, it is our understanding that the Court's previous ruling should have no application in your consideration of reclamation or mining permits. A written order of the Court regarding the matter will be forthcoming. When we receive a signed copy of the order we will forward a copy to you.

Sincerely,



Camille S. Williams  
Assistant City Attorney

cc: by facsimile or U.S. Mail  
Steve Alder, AAG, DNR  
John R. Baza, Director, DOGM  
Christopher A. Jones, Attorney for Richard W. Davis  
Michael Zundel, Attorney for Richard W. Davis  
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